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CMA No. 1020 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

**CMA No. 1020 of 2026
and CMP.No.10244 of 2026**

Reliance General Insurance Company Ltd.,
II Floor, Shri Abirami Towers,
No.453, Chowly Brown Road,
R.S.Puram, Coimbatore - 18.

..Appellant(s)

Vs

1. E. Gayathri
2. P. Sreeja
3. K. Gandhi

..Respondent(s)

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgement and decree dated 21.02.2024 made in MCOP No.874 of 2021 on the file of the Motor Accident Claims Tribunal, Special Sub Court to deal with MCOP Cases, Coimbatore.

For Appellant(s): Mrs.R.Sree Vidhya

For Respondent(s): Mr.K.Thilageswaran



JUDGMENT

(Judgment of the Court was delivered by K.Rajasekar J.)

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This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company against the judgment and decree dated 21.02.2024, made in M.C.O.P. No.874 of 2021, on the file of the Special Sub Court, Motor Accident Claims Tribunal, Coimbatore.

2.By consent of the learned counsel appearing for the appellant as well as the first respondent, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant is the third respondent in M.C.O.P.No.874 of 2021, on the file of the Special Sub Court, Motor Accident Claims Tribunal, Coimbatore. The first respondent/claimant filed the said claim petition, claiming a sum of Rs.30,00,000/- as compensation for the injuries sustained by him in the accident that took place on 10.03.2021.

4.According to the first respondent/claimant, on the date of accident, at about 15.30 hours, she was a pillioner in a Honda Activa bearing Registration No.TN 99 E 5134, with the second respondent from Kovai to Pollachi road, near Kallangkattu Pudur, at that time, the second respondent rode the vehicle in



a rash and negligent manner, at a high speed, without observing traffic rules and suddenly applied brake. Due to the said impact, the first respondent/claimant was thrown off and sustained grievous injuries. The accident occurred only due to rash and negligent riding by the second respondent. Hence, the first respondent/claimant filed the said claim petition, claiming compensation against the respondents 2 and 3 as rider and owner and appellant as insurer of the offending vehicle.

5.The respondents 2 and 3, rider and owner of the Motorcycle, remained ex-parte before the Tribunal.

6.The appellant-Insurance Company, filed counter statement and denied all the averments made by the first respondent/claimant in the claim petition. According to the appellant, at the time of accident, rider of the Motorcycle rode the same slowly and carefully, following the traffic rules. The accident occurred only due to the sole negligence of the first respondent/claimant who was a pillion rider at the time of accident did not take care to sit properly and fell down and had invited the accident. The first respondent/claimant has no helmet at the time of accident. In any event, the first respondent/claimant has to prove the age, avocation, income and injuries sustained by her, to claim compensation and prayed for dismissal of the claim petition.



7. Before the Tribunal, the first respondent/claimant examined herself as P.W.1, examined Doctor as P.W.2 and marked 15 documents as Exs.P1 to P15.

The appellant/Insurance Company did not let in any oral and documentary evidence. The Disability Certificate issued by the Coimbatore Medical College and Hospital, was marked as Court evidence viz., Ex.X1.

8. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent riding by the second respondent belonging to the third respondent and directed the appellant as well as the respondents 2 and 3 to pay a sum of Rs.40,07,930/- as compensation to the first respondent/claimant, jointly and severally.

9. Challenging the award granted by the Tribunal dated 21.02.2024, made in M.C.O.P. No.874 of 2021, the appellant - Insurance Company has come out with the present appeal.

10. The learned counsel appearing for the appellant-Insurance Company contended that the Tribunal failed to consider that the petitioner has sustained head injuries while traveling as a pillion rider without wearing a helmet, which is in clear violation of Section 129 of the Motor Vehicles Act, 1988. He further submitted that the first respondent failed to adhere to statutory safety requirements and thereby, contributed to the accident. The Tribunal ought to



have fixed contributory negligence accordingly. He further contended that the Tribunal further erred in awarding compensation towards loss of earning capacity without any reliable evidence to establish that the earning capacity of the first respondent/claimant was permanently affected. The adoption of the multiplier method in the absence of such proof is unsustainable. He also submitted that the Tribunal has erroneously awarded excessive amounts under the other heads. Hence, the appellant-Insurance Company prayed to modify the award amount granted by the Tribunal.

11.The learned counsel appearing for the first respondent/claimant made his submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

12.we have considered the submissions of the learned counsel appearing for the appellant-Insurance Company as well as the first respondent/claimant and perused the materials available on record.

13.It is an admitted position that the first respondent/claimant was not wearing a helmet at the time of the accident. However, this Court has carefully perused the award passed by the Tribunal as well as the pleadings and the counter filed. On such consideration, it is evident that no specific issue was



framed by the Tribunal with regard to the alleged non-wearing of a helmet or any violation of statutory provisions under the Motor Vehicles Act. Further, there is no cogent evidence placed on record to substantiate the contention that the claimant had violated any mandatory safety requirement or that such alleged violation had in any manner contributed to the occurrence of the accident or the extent of injuries sustained. In the absence of any pleadings, issue or proof establishing contributory negligence on the part of the first respondent/claimant, the said contention cannot be entertained at this stage. Therefore, upon a thorough consideration of the materials available on record, we are of the considered view that the contention raised with regard to the non-wearing of a helmet and the alleged violation of rules is devoid of merits and is liable to be rejected.

14.As far as the quantum of compensation is concerned, we have also carefully considered the issues framed and answered by the Tribunal. The Tribunal, upon appreciation of the case of the first respondent/claimant, has held that the first respondent/claimant sustained injuries in a road traffic accident that occurred on 10.03.2021 at about 15.30 hours on Kovai to Pollachi road, near Kallangkattu Pudur. It is the case of the first respondent/claimant that he was employed as a field officer and was earning a sum of Rs.20,000/- per month. However, the tribunal, relying upon Ex.P10 /the statement of accounts, has fixed the notional income of the first respondent/claimant at Rs.11,268/- per



month and by adding the future prospects, determined the monthly income at Rs.15,775/-. By applying the appropriate multiplier, the Tribunal has assessed the loss of earning capacity at Rs.22,52,670/-. Such assessment was made on the basis of the medical evidence indicating that the first respondent/claimant had sustained grievous injuries including diffuse axonal injury, D3, D4, D7 and sternum fractures and fracture with canal stenosis resulting in neurological and locomotor disability. The Medical Board has assessed the permanent disability at 80%. Further, the Tribunal after considering the nature of injuries, avocation of the first respondent/claimant and by applying the principles laid down by the Apex Court in *Raj Kumar vs. Ajay kumar*, [(2011) 1 SCC 343], has assessed the functional disability at 70% and consequently, determined the loss of earning capacity. We find no infirmity in such findings, as the permanent disability has evidently resulted in loss of earning capacity. Accordingly, the compensation awarded under the head 'loss of income/loss of earning capacity' at Rs.22,52,670/- is found to be just and proper and is hereby confirmed. The Tribunal, considering the nature of injuries, has awarded a sum of Rs.15,000/- towards transport expenses. In view of the fact that the claimant underwent prolonged treatment and continuous physiotherapy, as evidenced by the testimony of P.W.2(Physiotherapist), we are of the considered view that the compensation under the said head requires enhancement. Accordingly, the same is enhanced to Rs.30,000/-. The Tribunal has further awarded a sum of Rs.30,000/- towards extra nourishment, which considering the nature of injuries

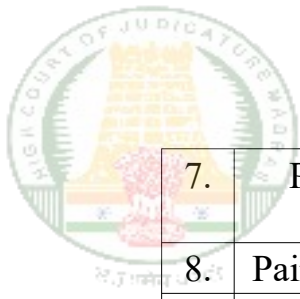


and duration of treatment, is found to be reasonable and is hereby confirmed.

The first respondent/claimant, a woman aged about 27 years at the time of accident, had undergone in-patient treatment from 10.03.2021 to 28.08.2021 in three different spells for nearly five months and had undergone multiple surgical procedures. The medical expenses incurred by the claimant have been substantiated by Ex.P15[Medical bills] and the Tribunal has rightly awarded compensation under the said head. However, the Tribunal has awarded only a sum of Rs.20,000/- towards attendant charges, which appears to be on the lower side. Considering the prolonged period of treatment and the need for assistance, the same is enhanced to Rs.40,000/-. The compensation awarded under the other heads by the Tribunal is found to be just, reasonable and in consonance with the evidence on record and the same are hereby confirmed. As far as the other heads are concerned, we have gone through the records and since the compensation awarded under the other heads are just and reasonable, the same are confirmed.

The compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earning capacity	22,52,670/-	22,52,670/-	Confirmed
2.	Transport expenses	15,000	30,000	Modified
3.	Extra nourishment expenses	30,000/-	30,000/-	Confirmed
4.	Attender charges	20,000/-	40,000/-	Modified
5.	Damage to clothes and articles	5,000/-	5,000/-	Confirmed
6.	Medical expenses	12,85,060/-	12,85,060/-	Confirmed



7.	Physiotherapy expenses	1,75,200/-	1,75,200/-	Confirmed
8.	Pain and sufferings	1,50,000/-	1,50,000/-	Confirmed
9.	Loss of amenities	75,000/-	75,000/-	Confirmed
	Total	40,07,930/-	40,42,930/-	Enhanced by Rs.35,000/-

15. In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal is hereby modified to Rs.40,42,930/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/Insurance Company as well as the respondents 2 and 3 are jointly and severally directed to deposit the amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent/claimant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed. No costs.

(C.V.K.,J.) (K.R.S.,J.)
22-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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C.V.KARTHIKEYAN, J.
AND



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To

1. The Motor Accident Claims Tribunal,
Special Sub Court to deal with MCOP Cases,
Coimbatore.

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K.RAJASEKAR, J.

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